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IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3407 OF 2007

Sudhir Dattatraya Rokade & Ors. .. Applicants

versus

State of Maharashtra & Anr. .. Respondents

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Mr.A.P. Mundargi i/b Pratap Patil for the applicants.
Mr.V.V. Purwant for respondent no.2.
Mr.K.V. Saste, APP for the State.

CORAM : D.G.KARNIK, J

DATED : 05th December 2007

P.C.:

1. Heard learned counsel for the applicant, learned counsel for respondent no.2 - original complainant and learned APP for the State.

2. The respondent no.2 (hereinafter referred to as 'the complainant') filed an F.I.R. alleging that the respondents had cheated him to the extent of

Rs.37,57,792/-. The case of the complainant is that applicant nos.1 to 4 are the Directors/Officers of Baramati Co-operative Bank Ltd. (for short 'the Bank') The applicant no.5 is the legal advisor of the bank. The applicant and his family members had borrowed a sum of Rs.78 lakhs as agricultural loans from the bank. They were defaulters in payment. They made an application to the Bank for reschedulement of the loans. According to the respondent no.2 if the reschedulement was done as per the circular of Reserve bank of India, Rs.81,87,128/- were due. Instead of that, the Bank rescheduled the loans showing Rs.1.44 crores as due. Thereafter the Bank sold the property of the respondent no.2 for recovery of the loan and recovered the loans. The bank made an excess recovery and did not pay the excess amount after correct calculation of the amount due and therefore the Bank has committed the offence of cheating. Respondent nos.1 to 4 being the Directors/Officers of the bank are charged with cheating and respondent no.5 who is the legal advisor is also charged with the offence on the ground that he had advised the bank for its illegal actions.

3. Perusal of the complaint shows that dispute between the parties is of civil nature. According to complainant his liability was less and the Bank

recovered more than the amount due. When I asked the learned counsel for the complainant whether the amount which was allegedly wrongly recovered was misappropriated by any of the applicants in their personal capacity or was credited in the bank account in the loan accounts. Learned counsel for the complainant states that the complainant filed affidavit and has nothing more to say. There is no specific allegation of misappropriation against any of the applicants personally.

4. Learned APP for the State submitted that the State supports the applicants. In the circumstances, in my view, the applicants are entitled to anticipatory bail. Accordingly, I pass the following order :-

O R D E R

. In the event of arrest of any of the applicants arrested applicant shall be released on bail on personal bond of Rs.25,000/- each with one surety of the like amount.

(D.G. KARNIK, J)